



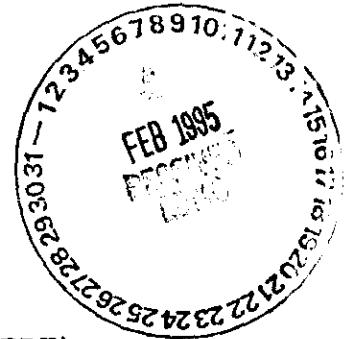
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101
January 23, 1995

Reply To
Attn Of: HW-113

Jerry Meninick, Chairman
Yakama Nation Tribal Council
P.O. Box 151
Toppenish, Washington 98948



Re: Environmental Restoration Disposal Facility (ERDF)

Dear Mr. Meninick:

I would like to express my appreciation to you and the members of the Yakama Indian Nation for your assistance on the cleanup and restoration activities at the Hanford Site. I would also like to respond to your recommendations outlined in Mr. Russell Jim's letter to me dated January 13, 1995 concerning the Environmental Restoration Disposal Facility (ERDF) project.

The Yakama Nation has raised issues throughout this past year during several stages of the decision-making process for ERDF. I personally discussed these issues with your staff at a meeting in August at our Hanford Project Office. The EPA has carefully considered your comments throughout the process and modified many of the aspects of the ERDF project to be more in line with the values expressed by the Yakama Nation. In particular, the ERDF project has been downsized to minimize impacts on natural resources and scoped only to receive wastes from cleanup of the Hanford Site. In addition, ERDF will be constructed in a phased approach which will require us to consult further with the Yakama Nation if additional disposal capacity is necessary.

I have carefully considered the conflicting values and interests on ERDF and we may still disagree on some issues. I believe that it is critical to expedite the Hanford cleanup, especially to move forward with cleanup along the Columbia River. The construction and operation of a disposal facility to receive waste from cleanup of Hanford's 100 and 300 Areas will help to protect and preserve the Columbia River and the natural and cultural resources adjacent to it. We invite you to work with us in the decision-making process for cleanup of waste sites along the Columbia River. We believe several of the issues raised by Mr. Jim's letter can be dealt with in these future cleanup decisions. We hope to continue to work closely with the Yakama Nation and other natural resource trustees to develop and implement measures to mitigate the impacts of future cleanup actions on all of the resources found at the Hanford Site.

HANFORD PROJECT OFFICE

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ENVIRONMENTAL PROTECTION

Enclosed is a general summary of our response to the major issues in Mr. Jim's letter. In addition, I have asked the EPA staff to compile and send you by separate cover the relevant portions of various documents in the ERDF decision-making process which more specifically discuss your issues. I have asked Doug Sherwood, Hanford Project Manager, to follow up on these issues. Please ask your staff to contact him at (509) 376-9529.

..... Thank you again for articulating how the ERDF may affect your treaty rights. I hope you appreciate both how difficult and how important this decision is to all of us. I look forward to continuing our relationship. Please call me at (206) 553-0479 if you have further concerns.

..... Sincerely,



Chuck Clarke
Regional Administrator

Enclosure

cc: Russell Jim, Yakama Indian Nation
Mary Riveland, Washington State Department of Ecology
John Wagoner, U.S. Department of Energy

Response to Issues of Yakama Indian Nation:

Issue 1a - Environmental impact analyses performed to date for the ERDF do not take into account future Yakama Indian Nation ("Yakamas") activities.

The ERDF will be closed in accordance with RCRA closure requirements which include, at a minimum, a RCRA-compliant cover. RCRA covers are designed to protect human health and the environment. The RCRA-compliant cover will be modified with the addition of soil for a minimum barrier thickness of fifteen feet. This additional soil cover will deter subsurface human intrusion and allow for unrestricted surface activities at the ERDF site. It is assumed that institutional controls will be imposed for the first 100 years after closure of the ERDF. EPA and DOE will consult with the Tribes and work to minimize impacts these restrictions may have on reserved Treaty rights.

Issue 1b - Evaluations performed by the Agencies to date for the ERDF have not reflected the comments of the Yakamas.

The major concerns of the Yakamas brought out during the ERDF scoping meeting focused on designing a facility that allows unrestricted usage of the land over and around the facility at 100 years past closure. (See responses to issues 1a and 2 herein). EPA believes that these concerns are met with the current ERDF cover and trench designs. Other concerns of the Yakamas have been addressed in the ERDF Record of Decision ("ROD") and the Responsiveness Summary attached to the ERDF ROD.

Issue 2 - The Yakamas do not agree that long-term institutional controls are effective or warranted.

It is assumed that institutional controls will be imposed for the first 100 years after closure of the ERDF and that passive controls (primarily the cover and warning marker systems) will prevent intrusion for at least 500 years. Furthermore, it is assumed that because the waste will be covered with at least fifteen feet of cover material, inadvertent intrusion into the waste due to excavation is minimized. The likelihood that someone would drill through the waste cannot be determined; however, a risk assessment was included in the ERDF RI/FS that addresses that scenario.

EPA believes that institutional controls are necessary at the ERDF in order to ensure protection of human health and the environment. In addition, EPA believes that these institutional controls will be effective, based upon the successful use of such passive controls at other Superfund sites to date.

Issue 3 - A NEPA evaluation of the impacts from the ERDF must occur, and an allowance should be made to allow for a NEPA legal challenge.

The intent of the regulatory package for the ERDF was to provide an integration of NEPA values within CERCLA documentation. In addition, the Department of Energy ("DOE") in the ERDF ROD has committed to the development and implementation of a Mitigation Action Plan, in coordination with the Natural Resource Trustee council.

DOE, EPA and the Washington State Department of Ecology ("Ecology") appreciate the cooperative attitudes that have been evidenced by all of the interested parties who have participated in the reviews and discussions of the ERDF Proposed Plan and related documentation. DOE, EPA and Ecology feel that the decision reached in the ROD is supported by the record, and hope that any remaining concerns can be resolved through continued discussions, without the need for litigation. With regard to any issues that cannot be so resolved, judicial review will be available. Congress did not preclude judicial review of issues under CERCLA, it merely required that such review be postponed until implementation of the selected remedy. The CERCLA statutory bar on pre-enforcement review of cleanup actions is a matter that only the courts can decide and interpret.

Neither EPA nor DOE can amend CERCLA, only Congress can amend the statute. However, in reaching the decision that is reflected in the ERDF ROD, EPA, DOE and Ecology are not turning a deaf ear to the needs and desires of interested parties and the public: significant considerations have been incorporated into the final decision based on input from these parties. For example, the location selected was consistent with criteria developed by the Future Site uses Working Group, the size of the facility was reduced to minimize the area disturbed, construction will commence on an extremely expedited schedule to assure that surface disturbance activities occur outside of sensitive nesting time periods.

Issue 4 - ERDF design criteria must be specified which meet the specifications previously supplied to the Agencies by the Yakamas.

The ERDF design will meet all the applicable or relevant and appropriate requirements for disposal of hazardous and radioactive material.

The ERDF will be closed in accordance with RCRA closure requirements which include, at a minimum, a RCRA-compliant cover. Additional site specific considerations will be incorporated into the design, including the addition of extra cover material that

will minimize the likelihood of inadvertent subsurface intrusion, enhance evapotranspiration, and allow for unrestricted surface use of the ERDF after closure.

The ERDF trench will utilize a double liner system. In the double liner system, the first liner collects leachate, which is water which passes through the waste and is contaminated. This leachate is then pumped from the trench and treated. A second liner below the first collects any leachate that may have passed through the first liner.

Finally, the ERDF groundwater sampling and monitoring program will comply with the RCRA groundwater sampling and monitoring requirements for a hazardous waste landfill.

Issue 5 - Alternative remedial actions suggested by the Yakamas should be considered for long-term waste management.

EPA recognizes the problem of long-term management of waste. The decision to establish a central disposal facility stems from the idea that the current condition; i.e., numerous uncontrolled waste sites along the Columbia River, is much less desirable. Consolidation of waste into a central facility that is well marked and obviously incongruent to the surrounding environment will help deter inadvertent subsurface intrusion. The physical act of disinterring the waste material is technically feasible even by today's standards. The technical ability to remove interred waste will hopefully only improve with time.

The primary obstacle to a more suitable option than land disposal is the development of a practical treatment alternative for the type of waste projected. An above-ground storage/disposal facility does not appear practical, considering the safety, technology, and cost implications. The disinterment process would not be significantly different for an above- or below-ground facility.

New and innovative technology identification is a key element to the remediation selection process. Treatability studies are being carried out at Hanford to explore waste minimization possibilities. These technologies will be evaluated, if applicable, in the Focused Feasibility Studies for each operable unit cleanup. Remedy selection will be made in the RODs for the individual operable unit cleanups at the 100, 200 and 300 Areas of Hanford. The ERDF will accept the waste if it is identified in these RODs for disposal at the ERDF.